

Soon  
State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-3659/P2

ARG:kjf

RMR

D-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

and reinstatement of an operating privilege

Regen

1 AN ACT to amend 118.163 (2) (a), 118.163 (2m) (a), 343.28 (2), 343.30 (4), 343.305  
2 (7) (a), 343.305 (9) (a) (intro.), 343.305 (9) (am) (intro.), 345.47 (1) (c), 345.48 (2),  
3 345.48 (3), 345.48 (4), 800.09 (1) (c), 938.17 (2) (d), 938.34 (8), 938.34 (8d) (d),  
4 938.34 (14m), 938.34 (14r) (a), 938.342 (1g) (a), 938.343 (2), 938.344 (2e) (b),  
5 938.355 (6) (d) 2., 938.355 (6m) (a) 1m. and 961.50 (1) (intro.) of the statutes;  
6 relating to: seizure by a court or law enforcement officer of a motor vehicle  
7 operator's license

**Analysis by the Legislative Reference Bureau**

Under current law, if a person is convicted of an offense for which revocation of the person's operating privilege is mandatory, or if a court otherwise suspends or revokes a person's operating privilege, the court must take possession of the person's operator's license and forward it to the Department of Transportation (DOT).

> Under this bill, a court under these circumstances may take possession of a person's operator's license but is not required to do so.

Under current law, if a person is arrested for driving or operating a motor vehicle while under the influence of an intoxicant (OWI), a law enforcement officer may request the person to take a test to determine the amount of alcohol in his or her blood or breath. If a person submits to the test and the test results indicate a prohibited alcohol concentration, or if the person refuses to take the test, the officer must take possession of the person's operator's license and forward it to DOT.

If a court does take possession of a person's operator's license, the court must destroy the license.

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, and if possession is taken, shall destroy,

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Under this bill, a law enforcement officer under these circumstances may not take possession of a person's operator's license.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 118.163 (2) (a) of the statutes is amended to read:

2           118.163 (2) (a) Suspension of the person's operating privilege for not less than

3           30 days nor more than one year. The court shall ~~immediately~~ may take possession

4           of any suspended license and forward it. The court shall forward to the department

5           of transportation together with a notice stating the reason for and the duration of the

6           suspension, together with any license of which the court takes possession.

7           **SECTION 2.** 118.163 (2m) (a) of the statutes is amended to read:

8           118.163 (2m) (a) A county, city, village or town may enact an ordinance

9           permitting a court to suspend the operating privilege of a person who is at least 16

10          years of age but less than 18 years of age and is a dropout. The ordinance shall

11          provide that the court may suspend the person's operating privilege until the person

12          reaches the age of 18. The court shall ~~immediately~~ may take possession of any

13          suspended license and forward it. The court shall forward to the department of

14          transportation together with a notice stating the reason for and the duration of the

15          suspension, together with any license of which the court takes possession.

16          **SECTION 3.** 343.28 (2) of the statutes, as affected by 2003 Wisconsin Act 33, is  
17          amended to read:

18          343.28 (2) Whenever a person is convicted of any offense for which s. 343.31

19          makes mandatory the revocation by the secretary of such person's operating

20          privilege, the court in which the conviction occurred shall may require the surrender

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2-15

, and if possession is taken, shall destroy,

to it of any license then held by such person. The clerk of the court, or the justice, judge or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward to the department the record of conviction and any surrendered licenses license. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense, whether the offender was operating a commercial motor vehicle at the time of the offense and, if so, whether the offender was transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle designed to carry, or actually carrying, 16 or more passengers, including the driver.

SECTION ~~4~~ 343.30 (4) of the statutes is amended to read:

343.30 (4) Whenever a court or judge suspends or revokes an operating privilege under this section, the court or judge ~~shall immediately~~ may take possession of any suspended or revoked license and. The court or judge shall forward it, as provided in s. 345.48, to the department together with the record of conviction and notice of suspension or revocation, together with any license of which the court or judge takes possession. Whenever a court or judge restricts the operating privilege of a person, the court or judge shall forward notice of the restriction to the department.

SECTION ~~5~~ 343.305 (7) (a) of the statutes, as affected by 2003 Wisconsin Act 97, is amended to read:

343.305 (7) (a) If a person submits to chemical testing administered in accordance with this section and any test results indicate the presence of a detectable amount of a restricted controlled substance in the person's blood or a prohibited alcohol concentration, the law enforcement officer shall report the results to the

1 department and take possession of the person's license and forward it to the  
2 department. The person's operating privilege is administratively suspended for 6  
3 months.

4 **SECTION 6.** 343.305 (9) (a) (intro.) of the statutes is amended to read:

5 343.305 (9) (a) (intro.) If a person refuses to take a test under sub. (3) (a), the  
6 law enforcement officer shall immediately take possession of the person's license and  
7 prepare a notice of intent to revoke, by court order under sub. (10), the person's  
8 operating privilege. If the person was driving or operating a commercial motor  
9 vehicle, the officer shall issue an out-of-service order to the person for the 24 hours  
10 after the refusal and notify the department in the manner prescribed by the  
11 department. The officer shall issue a copy of the notice of intent to revoke the  
12 privilege to the person and submit or mail a copy with the person's license to the  
13 circuit court for the county in which the arrest under sub. (3) (a) was made. The  
14 officer shall also mail a copy of the notice of intent to revoke to the district attorney  
15 for that county and the department. The notice of intent to revoke the person's  
16 operating privilege shall contain substantially all of the following information:

17 **SECTION 7.** 343.305 (9) (am) (intro.) of the statutes is amended to read:

18 343.305 (9) (am) (intro.) If a person driving or operating or on duty time with  
19 respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law  
20 enforcement officer shall immediately take possession of the person's license, issue  
21 an out-of-service order to the person for the 24 hours after the refusal and notify the  
22 department in the manner prescribed by the department, and prepare a notice of  
23 intent to revoke, by court order under sub. (10), the person's operating privilege. The  
24 officer shall issue a copy of the notice of intent to revoke the privilege to the person  
25 and submit or mail a copy with the person's license to the circuit court for the county

1 in which the refusal is made. The officer shall also mail a copy of the notice of intent  
2 to revoke to the district attorney for that county and the department. The notice of  
3 intent to revoke the person's operating privilege shall contain substantially all of the  
4 following information:

5 **SECTION 8.** 345.47 (1) (c) of the statutes is amended to read:

6 345.47 (1) (c) If a court or judge suspends an operating privilege under this  
7 section, the court or judge ~~shall immediately~~ may take possession of the suspended  
8 license and the court or judge shall forward it to the department ~~together with the~~  
9 notice of suspension, which shall clearly state that the suspension was for failure to  
10 pay a forfeiture, a penalty assessment, if required by s. 757.05, a truck driver  
11 education assessment, if required by s. 349.04, a jail assessment, if required by s.  
12 302.46 (1), a railroad crossing improvement assessment, if required by s. 346.177,  
13 346.495 or 346.65 (4r), and a crime laboratories and drug law enforcement  
14 assessment, if required by s. 165.755, imposed by the court, together with any license  
15 of which the court or judge takes possession. The notice of suspension and the  
16 suspended license, if it is available and if the court or judge takes possession of it,  
17 shall be forwarded to the department within 48 hours after the order of suspension.  
18 If the forfeiture, penalty assessment, jail assessment, truck driver education  
19 assessment, railroad crossing improvement assessment, and crime laboratories and  
20 drug law enforcement assessment are paid during a period of suspension, the court  
21 or judge shall immediately notify the department. Upon receipt of the notice and  
22 payment of the reinstatement fee under s. 343.21 (1) (j), the department shall return  
23 the any surrendered license of which the court or judge takes possession and  
24 forwards to the department.

25 **SECTION 9.** 345.48 (2) of the statutes is amended to read:

*, and if possession is taken, shall destroy,*

345.48 (2) If the defendant is found guilty of a traffic violation for which revocation of his or her operating privilege is mandatory under s. 343.31, or for which the court revokes or suspends his or her operating privilege under s. 343.30, the court shall immediately may take possession of the suspended or revoked license. The revocation or suspension is effective immediately. The court ordered suspension or revocation shall be included as part of the report of conviction under sub. (1m).

**SECTION 10.** 345.48 (3) of the statutes is amended to read:

345.48 (3) If no notice of appeal is filed within 10 days, the court shall, within 5 working days after expiration of the 10-day period, forward to the department any surrendered license of which the court takes possession.

**SECTION ~~11~~** 345.48 (4) of the statutes is amended to read:

345.48 (4) If notice of appeal is filed the court shall, within 5 working days after it is filed, forward to the department a certificate stating that a notice of appeal has been filed ~~and shall return any surrendered license~~ of which the court takes possession. Thereafter, the court shall notify the department as required under s. 343.325 (1) (b) and (c).

**SECTION ~~12~~** 800.09 (1) (c) of the statutes is amended to read:

800.09 (1) (c) The court may suspend the defendant's operating privilege, as defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments and costs are paid, if the defendant has not done so within 60 days after the date the restitution or payments or both are to be made under par. (a) and has not notified the court that he or she is unable to comply with the judgment, as provided under s. 800.095 (4) (a), except that the suspension period may not exceed 2 years. The court shall may take possession of the suspended license and. The court shall forward the license ~~along with,~~ a notice of the suspension clearly stating that the suspension is

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1 for failure to comply with a judgment of the court along with any license of which  
2 the court takes possession, to the department of transportation. This paragraph does  
3 not apply if the forfeiture is assessed for violation of an ordinance that is unrelated  
4 to the violator's operation of a motor vehicle.

5 SECTION ~~13~~ 938.17 (2) (d) of the statutes is amended to read:

6 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal  
7 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that  
8 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2)  
9 or 961.575 (2), the court shall enter any of the dispositional orders permitted under  
10 s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture  
11 imposed by the municipal court, the court may not impose a jail sentence but may  
12 suspend any license issued under ch. 29 for not less than 30 days nor more than 5  
13 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for  
14 not more than 2 years. If a court suspends a license or privilege under this section,  
15 the court shall immediately take possession of the applicable license ~~and forward it~~  
16 if issued under ch. 29 or, if the license is issued under ch. 343, the court may take

17 possession of the license. The court shall forward to the department that issued the  
18 license, ~~together with~~ the notice of suspension clearly stating that the suspension is  
19 for failure to pay a forfeiture imposed by the court, together with any license of which  
20 the court takes possession. If the forfeiture is paid during the period of suspension,  
21 the court shall immediately notify the department, which shall thereupon return the  
22 license to the person.

23 SECTION ~~14~~ 938.34 (8) of the statutes is amended to read:

24 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that  
25 this disposition is in the best interest of the juvenile and in aid of rehabilitation. The

, and if possession is taken, shall destroy,

issued under  
ch. 29

, if the license is issued  
under ch. 29,

, and if possession is taken, shall destroy,

1 maximum forfeiture that the court may impose under this subsection for a violation  
2 by a juvenile is the maximum amount of the fine that may be imposed on an adult  
3 for committing that violation or, if the violation is applicable only to a person under  
4 18 years of age, \$100. Any such order shall include a finding that the juvenile alone  
5 is financially able to pay the forfeiture and shall allow up to 12 months for payment.  
6 If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order  
7 other alternatives under this section, in accordance with the conditions specified in  
8 this chapter; or the court may suspend any license issued under ch. 29 for not less  
9 than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as  
10 defined in s. 340.01 (40), for not more than 2 years. If the court suspends any license  
11 under this subsection, the clerk of the court shall immediately take possession of the  
12 suspended license and forward it if issued under ch. 29 or, if the license is issued

13 under ch. 343, the court may take possession of the license. The court shall forward  
14 to the department which issued the license, together with a notice of suspension  
15 clearly stating that the suspension is for failure to pay a forfeiture imposed by the  
16 court, together with any license <sup>issued under ch. 29</sup> of which the court takes possession. If the forfeiture  
17 is paid during the period of suspension, the suspension shall be reduced to the time  
18 period which has already elapsed and the court shall immediately notify the  
19 department which shall then return the license to the juvenile. Any recovery under  
20 this subsection shall be reduced by the amount recovered as a forfeiture for the same  
21 act under s. 938.45 (1r) (b).

22 ~~SECTION 15.~~ <sup>#</sup> 938.34 (8d) (d) of the statutes is amended to read:

23 938.34 (8d) (d) If the juvenile fails to pay the surcharge under par. (a), the court  
24 may vacate the surcharge and order other alternatives under this section, in  
25 accordance with the conditions specified in this chapter; or the court may suspend

, if the license is issued under ch. 29,



, and if possession is taken, shall destroy,

any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. If the court suspends any license under this subsection, the clerk of the court shall immediately take possession of the suspended license and forward it if issued under ch. 29 or, if the license is issued under ch. 343,

the court may take possession of the license. The court shall forward to the department which issued the license, together with a notice of suspension clearly stating that the suspension is for failure to pay a surcharge imposed by the court, together with any license of which the court takes possession. If the surcharge is paid during the period of suspension, the suspension shall be reduced to the time period which has already elapsed and the court shall immediately notify the department which shall then return the license to the juvenile. , if the license is issued under ch. 29,

SECTION ~~16~~ 938.34 (14m) of the statutes is amended to read:

938.34 (14m) VIOLATION INVOLVING A MOTOR VEHICLE. Restrict or suspend the operating privilege, as defined in s. 340.01 (40), of a juvenile who is adjudicated delinquent under a violation of any law in which a motor vehicle is involved. If the court suspends a juvenile's operating privilege under this subsection, the court shall immediately may take possession of the suspended license and forward it. The court shall forward to the department of transportation together with a notice stating the reason for and duration of the suspension, together with any license of which the court takes possession. If the court limits a juvenile's operating privilege under this subsection, the court shall immediately notify the department of transportation of that limitation.

SECTION ~~17~~ 938.34 (14r) (a) of the statutes is amended to read:

, and if possession is taken, shall destroy,

938.34 (14r) (a) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated ch. 961, the court shall suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. The court shall immediately may take possession of any suspended license and forward it. The court shall forward to the department of transportation together with the notice of suspension clearly stating that the suspension or revocation is for a violation of ch. 961, together with any license of which the court takes possession.

SECTION 18. 938.342 (1g) (a) of the statutes is amended to read:

938.342 (1g) (a) Suspend the person's operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than one year. The court shall immediately may take possession of the suspended license and forward it. The court shall forward to the department of transportation together with a notice stating the reason for and duration of the suspension, together with any license of which the court takes possession.

SECTION 19. 938.343 (2) of the statutes is amended to read:

938.343 (2) Impose a forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing that violation or, if the violation is only applicable to a person under 18 years of age, \$50. Any such order shall include a finding that the juvenile alone is financially able to pay and shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court shall immediately take possession of the suspended license and forward it if issued under ch. 29 or, if the license is issued under ch. 343, the court may take possession of the license. The

, and if possession is taken, shall destroy,

1 court shall forward to the department which issued the license, ~~together with the~~  
2 notice of suspension clearly stating that the suspension is for failure to pay a  
3 forfeiture imposed by the court, together with any license <sup>issued under ch. 29</sup> ~~of which the court takes~~  
4 possession. If the forfeiture is paid during the period of suspension, the court shall  
5 immediately notify the department, which will thereupon return the license to the  
6 person. Any recovery under this subsection shall be reduced by the amount  
7 recovered as a forfeiture for the same act under s. 938.45 (1r) (b). <sup>if the license is</sup>  
<sup>issued under ch. 29</sup>

8 ~~SECTION 20.~~ 938.344 (2e) (b) of the statutes is amended to read:

9 938.344 (2e) (b) Whenever a court suspends a juvenile's operating privilege  
10 under this subsection, the court shall ~~immediately~~ may take possession of any  
11 suspended license ~~and forward it~~. The court shall immediately forward to the  
12 department of transportation, ~~together with~~ the notice of suspension clearly stating  
13 that the suspension is for a violation under s. 961.573 (2), 961.574 (2) or 961.575 (2),  
14 or a local ordinance that strictly conforms to one of those statutes, together with any  
15 license of which the court takes possession.

16 ~~SECTION 21.~~ 938.355 (6) (d) 2. of the statutes is amended to read:

17 938.355 (6) (d) 2. Suspension of or limitation on the use of the juvenile's  
18 operating privilege, as defined under s. 340.01 (40), or of any approval issued under  
19 ch. 29 for a period of not more than 3 years. If the juvenile does not hold a valid  
20 operator's license under ch. 343, other than an instruction permit under s. 343.07 or  
21 a restricted license under s. 343.08, on the date of the order issued under this  
22 subdivision, the court may order the suspension to begin on the date that the  
23 operator's license would otherwise be reinstated or issued after the juvenile applies  
24 and qualifies for issuance or 2 years after the date of the order issued under this  
25 subdivision, whichever occurs first. If the court suspends the juvenile's operating

, and if possession is taken, shall destroy,

1 privileges or an approval issued under ch. 29, the court shall immediately take  
2 possession of the suspended ~~license or approval and forward it~~ may take possession  
3 of the suspended license. The court shall forward to the department that issued it,  
4 together with the license or approval the notice of suspension, together with any  
5 license or approval of which the court takes possession.

6 SECTION ~~22~~ 938.355 (6m) (a) 1m. of the statutes is amended to read:

7 938.355 (6m) (a) 1m. Suspension or limitation on the use of the juvenile's  
8 operating privilege, as defined under s. 340.01 (40), or of any approval issued under  
9 ch. 29 for not more than one year. If the juvenile does not hold a valid operator's  
10 license under ch. 343, other than an instruction permit under s. 343.07 or a restricted  
11 license under s. 343.08, on the date of the order issued under this subdivision, the  
12 court may order the suspension or limitation to begin on the date that the operator's  
13 license would otherwise be reinstated or issued after the juvenile applies and  
14 qualifies for issuance or 2 years after the date of the order issued under this  
15 subdivision, whichever occurs first. If the court suspends a juvenile's operating  
16 privilege or an approval issued under ch. 29, the court shall immediately take  
17 possession of the suspended ~~license or approval and forward it~~ may take possession  
18 of the suspended license. The court shall forward to the department that issued the  
19 license or approval ~~with~~ a notice stating the reason for and the duration of the  
20 suspension, together with any license or approval of which the court takes  
21 possession.

22 SECTION ~~23~~ 961.50 (1) (intro.) of the statutes is amended to read:

23 961.50 (1) (intro.) If a person is convicted of any violation of this chapter, the  
24 court shall, in addition to any other penalties that may apply to the crime, suspend  
25 the person's operating privilege, as defined in s. 340.01 (40), for not less than 6

, and if possession is taken, shall destroy,

1 months nor more than 5 years. The court shall ~~immediately~~ may take possession of  
2 any suspended license and ~~forward it.~~ The court shall forward to the department of  
3 transportation ~~together with the record of conviction and notice of the suspension,~~  
4 together with any license of which the court takes possession. The person is eligible  
5 for an occupational license under s. 343.10 as follows:

6 **SECTION ~~24~~ Initial applicability.**

7 (1) This act first applies to convictions, suspensions, revocations, and refusals  
8 occurring on the effective date of this subsection.

9 (END)

D-Note

**2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3659/P2ins  
ARG:.....

**INSERT ANAL:**

Under current law, with limited exceptions, a suspended operating privilege is automatically reinstated when the period of suspension has terminated and a reinstatement fee is paid to DOT or when the suspension is based on a conviction and the conviction is reversed, set aside, or vacated. Whenever a person's operating privilege is automatically reinstated, DOT must notify the person and return any surrendered and unexpired license in its possession.

Also under current law, if a court suspends a person's operating privilege for failure to pay a forfeiture or surcharge, the court must take possession of the person's suspended operator's license and forward it to DOT, and DOT must return the license to the person upon payment of the forfeiture or surcharge and payment of the reinstatement fee.

Under this bill, which requires the court to destroy a person's operator's license if the court takes possession of it, DOT does not return a person's suspended operator's license upon reinstatement of the person's operating privilege. Instead, a new license must be issued.

**INSERT 2-15:**

**SECTION 1,** 343.28 (2) of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

343.28 (2) Whenever a person is convicted of any offense for which s. 343.31 makes mandatory the revocation by the secretary of such person's operating privilege, the court in which the conviction occurred ~~shall~~ may require the surrender to it of any license then held by such person and, if the court requires surrender of a license, the court shall destroy the license. The clerk of the court, or the justice, judge or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward to the department the record of conviction ~~and any surrendered licenses. The record of conviction forwarded to the department, which~~ shall state whether the offender was involved in an accident at the time of the offense, whether the offender was operating a commercial motor vehicle at the time of the offense and, if so, whether

the offender was transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73, or was operating a vehicle designed to carry, or actually carrying, 16 or more passengers, including the driver.

History: 1971 c. 278; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1979 c. 331; 1989 a. 105; 1995 a. 113; 1999 a. 140; 2003 a. 33.

**INSERT 4-3:**

~~SECTION 2~~ 343.305 (9) (a) (intro.) of the statutes, as affected by 2003 Wisconsin Act 199, is amended to read:

343.305 (9) (a) (intro.) If a person refuses to take a test under sub. (3) (a), the law enforcement officer shall immediately ~~take possession of the person's license and~~ prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. If the person was driving or operating a commercial motor vehicle, the officer shall issue an out-of-service order to the person for the 24 hours after the refusal and notify the department in the manner prescribed by the department. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy ~~with the person's license~~ to the circuit court for the county in which the arrest under sub. (3) (a) was made or to the municipal court in the municipality in which the arrest was made if the arrest was for a violation of a municipal ordinance under sub. (3) (a) and the municipality has a municipal court. The officer shall also mail a copy of the notice of intent to revoke to the attorney for that municipality or to the district attorney for that county, as appropriate, and to the department. The notice of intent to revoke the person's operating privilege shall contain substantially all of the following information:

NOTE: NOTE: Par. (a) (Intro.) is shown as amended eff. 8-1-04 by 2003 Wis. Act 199. Prior to 8-1-04 it reads: NOTE:

(a) If a person refuses to take a test under sub. (3) (a), the law enforcement officer shall immediately ~~take possession of the person's license and~~ prepare a notice of intent to revoke, by court order under sub. (10), the person's operating privilege. If the person was driving or operating a commercial motor vehicle, the officer shall issue an out-of-service order to the person for the 24 hours after the refusal and notify the department in the manner prescribed by the department. The officer shall issue a copy of the notice of intent to revoke the privilege to the person and submit or mail a copy ~~with the person's license~~ to the circuit court for the county in which

~~surrendered and unexpired license in its possession.~~ If the license expired during the period of revocation or suspension, such person may renew the license at the standard renewal fee at any time within 30 days after the reinstatement of the operating privilege.

History: 1973 c. 90; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1991 a. 39, 277; 1993 a. 16; 1997 a. 84.

~~SECTION 3.~~ 345.47 (1) (c) of the statutes, as affected by 2003 Wisconsin Act 139, is amended to read:

345.47 (1) (c) If a court or judge suspends an operating privilege under this section, the court or judge ~~shall immediately~~ may take possession of, and if possession is taken, shall destroy, the suspended license and the court or judge shall forward ~~it~~ to the department ~~together with~~ the notice of suspension, which shall clearly state that the suspension was for failure to pay a forfeiture, plus costs, fees, and surcharges imposed under ch. 814. The notice of suspension ~~and the suspended license, if it is available,~~ shall be forwarded to the department within 48 hours after the order of suspension. If the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, are paid during a period of suspension, the court or judge shall immediately notify the department. ~~Upon receipt of the notice and payment of the reinstatement fee under s. 343.21 (1) (j), the department shall return the surrendered license.~~

History: 1971 c. 278; 1973 c. 218; 1977 c. 29 ss. 1477 to 1482, 1654 (7) (c); 1979 c. 34; 1981 c. 165; 1987 a. 27, 389; 1989 a. 31, 107; 1991 a. 34, 39, 189; 1993 a. 16; 1995 a. 269; 1997 a. 27, 84, 135, 237, 252; 1999 a. 9, 32, 185; 2001 a. 16; 2003 a. 139.

**INSERT 6-10:**

~~SECTION 3.~~ 345.48 (3) of the statutes is repealed.



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3659/P2dn

ARG: 

*Date*

ATTN: Kristina Boardman

As discussed, the attached draft requires a court to destroy any driver's license of which it takes possession. The draft also modifies existing law that requires DOT to return a driver's license upon reinstatement of the license. Instead, DOT will issue a new license. It is unclear to me whether this change in administrative procedure will have any practical affect on licensees. For example, I do not know whether this change will require a licensee to pass any tests or meet any other requirements before the new license document is issued as part of the operating privilege reinstatement that are not currently required for reinstatement.

Aaron R. Gary  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

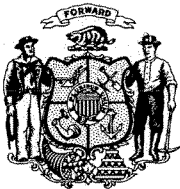
LRB-3659/P2dn  
ARG:kjf:rs

July 30, 2004

ATTN: Kristina Boardman

As discussed, the attached draft requires a court to destroy any driver's license of which it takes possession. The draft also modifies existing law that requires DOT to return a driver's license upon reinstatement of the license. Instead, DOT will issue a new license. It is unclear to me whether this change in administrative procedure will have any practical affect on licensees. For example, I do not know whether this change will require a licensee to pass any tests or meet any other requirements before the new license document is issued as part of the operating privilege reinstatement that are not currently required for reinstatement.

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State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-3659/P2

ARG:kjfrs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1     AN ACT *to repeal* 345.48 (3); and *to amend* 118.163 (2) (a), 118.163 (2m) (a),  
2           343.28 (2), 343.30 (4), 343.305 (7) (a), 343.305 (9) (a) (intro.), 343.305 (9) (am)  
3           (intro.), 343.39 (2), 345.47 (1) (c), 345.48 (2), 345.48 (4), 800.09 (1) (c), 938.17 (2)  
4           (d), 938.34 (8), 938.34 (8d) (d), 938.34 (14m), 938.34 (14r) (a), 938.342 (1g) (a),  
5           938.343 (2), 938.344 (2e) (b), 938.355 (6) (d) 2., 938.355 (6m) (a) 1m. and 961.50  
6           (1) (intro.) of the statutes; **relating to:** seizure by a court or law enforcement  
7           officer of a motor vehicle operator's license and reinstatement of an operating  
8           privilege.

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*Analysis by the Legislative Reference Bureau*

Under current law, if a person is convicted of an offense for which revocation of the person's operating privilege is mandatory, or if a court otherwise suspends or revokes a person's operating privilege, the court must take possession of the person's operator's license and forward it to the Department of Transportation (DOT).

Under this bill, a court under these circumstances may take possession of a person's operator's license but is not required to do so. If a court does take possession of a person's operator's license, the court must destroy the license.

Under current law, if a person is arrested for driving or operating a motor vehicle while under the influence of an intoxicant (OWI), a law enforcement officer

may request the person to take a test to determine the amount of alcohol in his or her blood or breath. If a person submits to the test and the test results indicate a prohibited alcohol concentration, or if the person refuses to take the test, the officer must take possession of the person's operator's license and forward it to DOT.

Under this bill, a law enforcement officer under these circumstances may not take possession of a person's operator's license.

Under current law, with limited exceptions, a suspended operating privilege is automatically reinstated when the period of suspension has terminated and a reinstatement fee is paid to DOT or when the suspension is based on a conviction and the conviction is reversed, set aside, or vacated. Whenever a person's operating privilege is automatically reinstated, DOT must notify the person and return any surrendered and unexpired license in its possession.

Also under current law, if a court suspends a person's operating privilege for failure to pay a forfeiture or surcharge, the court must take possession of the person's suspended operator's license and forward it to DOT, and DOT must return the license to the person upon payment of the forfeiture or surcharge and payment of the reinstatement fee.

Under this bill, which requires the court to destroy a person's operator's license if the court takes possession of it, DOT does not return a person's suspended operator's license upon reinstatement of the person's operating privilege. Instead, a new license must be issued.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 118.163 (2) (a) of the statutes is amended to read:

2           118.163 (2) (a) Suspension of the person's operating privilege for not less than  
3           30 days nor more than one year. The court ~~shall immediately~~ may take possession  
4           of, and if possession is taken, shall destroy, any suspended license ~~and forward it.~~  
5           The court shall forward to the department of transportation ~~together with~~ a notice  
6           stating the reason for and the duration of the suspension.

7           **SECTION 2.** 118.163 (2m) (a) of the statutes is amended to read:

8           118.163 (2m) (a) A county, city, village or town may enact an ordinance  
9           permitting a court to suspend the operating privilege of a person who is at least 16  
10          years of age but less than 18 years of age and is a dropout. The ordinance shall

1 provide that the court may suspend the person's operating privilege until the person  
2 reaches the age of 18. The court ~~shall immediately~~ may take possession of, and if  
3 possession is taken, shall destroy, any suspended license and ~~forward it.~~ The court  
4 shall forward to the department of transportation together with a notice stating the  
5 reason for and the duration of the suspension.

6 **SECTION 3.** 343.28 (2) of the statutes, as affected by 2003 Wisconsin Act 33, is  
7 amended to read:

8 343.28 (2) Whenever a person is convicted of any offense for which s. 343.31  
9 makes mandatory the revocation by the secretary of such person's operating  
10 privilege, the court in which the conviction occurred ~~shall~~ may require the surrender  
11 to it of any license then held by such person and, if the court requires surrender of  
12 a license, the court shall destroy the license. The clerk of the court, or the justice,  
13 judge or magistrate if the court has no clerk, shall, as provided in s. 345.48, forward  
14 to the department the record of conviction ~~and any surrendered licenses.~~ ~~The record~~  
15 ~~of conviction forwarded to the department, which~~ shall state whether the offender  
16 was involved in an accident at the time of the offense, whether the offender was  
17 operating a commercial motor vehicle at the time of the offense and, if so, whether  
18 the offender was transporting hazardous materials requiring placarding or any  
19 quantity of a material listed as a select agent or toxin under 42 CFR 73, or was  
20 operating a vehicle designed to carry, or actually carrying, 16 or more passengers,  
21 including the driver.

22 **SECTION 4.** 343.30 (4) of the statutes is amended to read:

23 343.30 (4) Whenever a court or judge suspends or revokes an operating  
24 privilege under this section, the court or judge ~~shall immediately~~ may take  
25 possession of, and if possession is taken, shall destroy, any suspended or revoked

1 license and. ~~The court or judge~~ shall forward it, as provided in s. 345.48, to the  
2 department ~~together with~~ the record of conviction and notice of suspension or  
3 revocation. Whenever a court or judge restricts the operating privilege of a person,  
4 the court or judge shall forward notice of the restriction to the department.

5 **SECTION 5.** 343.305 (7) (a) of the statutes, as affected by 2003 Wisconsin Act 97,  
6 is amended to read:

7 343.305 (7) (a) If a person submits to chemical testing administered in  
8 accordance with this section and any test results indicate the presence of a detectable  
9 amount of a restricted controlled substance in the person's blood or a prohibited  
10 alcohol concentration, the law enforcement officer shall report the results to the  
11 department ~~and take possession of the person's license and forward it to the~~  
12 department. The person's operating privilege is administratively suspended for 6  
13 months.

14 **SECTION 6.** 343.305 (9) (a) (intro.) of the statutes, as affected by 2003 Wisconsin  
15 Act 199, is amended to read:

16 343.305 (9) (a) (intro.) If a person refuses to take a test under sub. (3) (a), the  
17 law enforcement officer shall immediately ~~take possession of the person's license and~~  
18 prepare a notice of intent to revoke, by court order under sub. (10), the person's  
19 operating privilege. If the person was driving or operating a commercial motor  
20 vehicle, the officer shall issue an out-of-service order to the person for the 24 hours  
21 after the refusal and notify the department in the manner prescribed by the  
22 department. The officer shall issue a copy of the notice of intent to revoke the  
23 privilege to the person and submit or mail a copy ~~with the person's license~~ to the  
24 circuit court for the county in which the arrest under sub. (3) (a) was made or to the  
25 municipal court in the municipality in which the arrest was made if the arrest was

1 for a violation of a municipal ordinance under sub. (3) (a) and the municipality has  
2 a municipal court. The officer shall also mail a copy of the notice of intent to revoke  
3 to the attorney for that municipality or to the district attorney for that county, as  
4 appropriate, and to the department. The notice of intent to revoke the person's  
5 operating privilege shall contain substantially all of the following information:

6 **SECTION 7.** 343.305 (9) (am) (intro.) of the statutes, as affected by 2003  
7 Wisconsin Act 199, is amended to read:

8 343.305 (9) (am) (intro.) If a person driving or operating or on duty time with  
9 respect to a commercial motor vehicle refuses a test under sub. (3) (am), the law  
10 enforcement officer shall immediately ~~take possession of the person's license~~, issue  
11 an out-of-service order to the person for the 24 hours after the refusal and notify the  
12 department in the manner prescribed by the department, and prepare a notice of  
13 intent to revoke, by court order under sub. (10), the person's operating privilege. The  
14 officer shall issue a copy of the notice of intent to revoke the privilege to the person  
15 and submit or mail a copy ~~with the person's license~~ to the circuit court for the county  
16 in which the refusal is made or to the municipal court in the municipality in which  
17 the refusal is made if the person's refusal was in violation of a municipal ordinance  
18 and the municipality has a municipal court. The officer shall also mail a copy of the  
19 notice of intent to revoke to the attorney for that municipality or to the district  
20 attorney for that county, as appropriate, and to the department. The notice of intent  
21 to revoke the person's operating privilege shall contain substantially all of the  
22 following information:

23 **SECTION 8.** 343.39 (2) of the statutes is amended to read:

24 343.39 (2) Whenever a person's operating privilege is automatically reinstated,  
25 the department shall forthwith notify such person thereof ~~and shall return any~~

1     ~~surrendered and unexpired license in its possession.~~ If the license expired during the  
2     period of revocation or suspension, such person may renew the license at the  
3     standard renewal fee at any time within 30 days after the reinstatement of the  
4     operating privilege.

5     **SECTION 9.** 345.47 (1) (c) of the statutes, as affected by 2003 Wisconsin Act 139,  
6     is amended to read:

7     345.47 (1) (c) If a court or judge suspends an operating privilege under this  
8     section, the court or judge ~~shall immediately~~ may take possession of, and if  
9     possession is taken, shall destroy, the suspended license and the court or judge shall  
10    forward it to the department ~~together with~~ the notice of suspension, which shall  
11    clearly state that the suspension was for failure to pay a forfeiture, plus costs, fees,  
12    and surcharges imposed under ch. 814. The notice of suspension ~~and the suspended~~  
13    license, ~~if it is available,~~ shall be forwarded to the department within 48 hours after  
14    the order of suspension. If the forfeiture, plus costs, fees, and surcharges imposed  
15    under ch. 814, are paid during a period of suspension, the court or judge shall  
16    immediately notify the department. ~~Upon receipt of the notice and payment of the~~  
17    ~~reinstatement fee under s. 343.21 (1) (j), the department shall return the~~  
18    ~~surrendered license.~~

19    **SECTION 10.** 345.48 (2) of the statutes is amended to read:

20    345.48 (2) If the defendant is found guilty of a traffic violation for which  
21    revocation of his or her operating privilege is mandatory under s. 343.31, or for which  
22    the court revokes or suspends his or her operating privilege under s. 343.30, the court  
23    ~~shall immediately~~ may take possession of, and if possession is taken, shall destroy,  
24    the suspended or revoked license. The revocation or suspension is effective



1 immediately. The court ordered suspension or revocation shall be included as part  
2 of the report of conviction under sub. (1m).

3 **SECTION 11.** 345.48 (3) of the statutes is repealed.

4 **SECTION 12.** 345.48 (4) of the statutes is amended to read:

5 345.48 (4) If notice of appeal is filed the court shall, within 5 working days after  
6 it is filed, forward to the department a certificate stating that a notice of appeal has  
7 been filed ~~and shall return any surrendered license.~~ Thereafter, the court shall  
8 notify the department as required under s. 343.325 (1) (b) and (c).

9 **SECTION 13.** 800.09 (1) (c) of the statutes is amended to read:

10 800.09 (1) (c) The court may suspend the defendant's operating privilege, as  
11 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments  
12 and costs are paid, if the defendant has not done so within 60 days after the date the  
13 restitution or payments or both are to be made under par. (a) and has not notified the  
14 court that he or she is unable to comply with the judgment, as provided under s.  
15 800.095 (4) (a), except that the suspension period may not exceed 2 years. The court  
16 ~~shall may take possession of, and if possession is taken, shall destroy,~~ the suspended  
17 license ~~and. The court shall forward the license along with,~~ a notice of the suspension  
18 clearly stating that the suspension is for failure to comply with a judgment of the  
19 court, to the department of transportation. This paragraph does not apply if the  
20 forfeiture is assessed for violation of an ordinance that is unrelated to the violator's  
21 operation of a motor vehicle.

22 **SECTION 14.** 938.17 (2) (d) of the statutes is amended to read:

23 938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal  
24 ordinance other than an ordinance enacted under s. 118.163 or an ordinance that  
25 conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2)

1 or 961.575 (2), the court shall enter any of the dispositional orders permitted under  
2 s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture  
3 imposed by the municipal court, the court may not impose a jail sentence but may  
4 suspend any license issued under ch. 29 for not less than 30 days nor more than 5  
5 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for  
6 not more than 2 years. If a court suspends a license or privilege under this section,  
7 the court shall immediately take possession of the applicable license ~~and forward it~~  
8 if issued under ch. 29 or, if the license is issued under ch. 343, the court may take  
9 possession of, and if possession is taken, shall destroy, the license. The court shall  
10 forward to the department that issued the license, ~~together with~~ the notice of  
11 suspension clearly stating that the suspension is for failure to pay a forfeiture  
12 imposed by the court, together with any license issued under ch. 29 of which the court  
13 takes possession. If the forfeiture is paid during the period of suspension, the court  
14 shall immediately notify the department, which shall thereupon, if the license is  
15 issued under ch. 29, return the license to the person.

16 **SECTION 15.** 938.34 (8) of the statutes is amended to read:

17 938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that  
18 this disposition is in the best interest of the juvenile and in aid of rehabilitation. The  
19 maximum forfeiture that the court may impose under this subsection for a violation  
20 by a juvenile is the maximum amount of the fine that may be imposed on an adult  
21 for committing that violation or, if the violation is applicable only to a person under  
22 18 years of age, \$100. Any such order shall include a finding that the juvenile alone  
23 is financially able to pay the forfeiture and shall allow up to 12 months for payment.  
24 If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order  
25 other alternatives under this section, in accordance with the conditions specified in

1 this chapter; or the court may suspend any license issued under ch. 29 for not less  
2 than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as  
3 defined in s. 340.01 (40), for not more than 2 years. If the court suspends any license  
4 under this subsection, the clerk of the court shall immediately take possession of the  
5 suspended license ~~and forward it~~ if issued under ch. 29 or, if the license is issued  
6 under ch. 343, the court may take possession of, and if possession is taken, shall  
7 destroy, the license. The court shall forward to the department which issued the  
8 license, ~~together with~~ a notice of suspension clearly stating that the suspension is for  
9 failure to pay a forfeiture imposed by the court, ~~together with any license issued~~  
10 under ch. 29 of which the court takes possession. If the forfeiture is paid during the  
11 period of suspension, the suspension shall be reduced to the time period which has  
12 already elapsed and the court shall immediately notify the department which shall  
13 then, if the license is issued under ch. 29, return the license to the juvenile. Any  
14 recovery under this subsection shall be reduced by the amount recovered as a  
15 forfeiture for the same act under s. 938.45 (1r) (b).

16 **SECTION 16.** 938.34 (8d) (d) of the statutes is amended to read:

17 938.34 (8d) (d) If the juvenile fails to pay the surcharge under par. (a), the court  
18 may vacate the surcharge and order other alternatives under this section, in  
19 accordance with the conditions specified in this chapter; or the court may suspend  
20 any license issued under ch. 29 for not less than 30 days nor more than 5 years, or  
21 suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less  
22 than 30 days nor more than 5 years. If the court suspends any license under this  
23 subsection, the clerk of the court shall immediately take possession of the suspended  
24 license ~~and forward it~~ if issued under ch. 29 or, if the license is issued under ch. 343,  
25 the court may take possession of, and if possession is taken, shall destroy, the license.

1 The court shall forward to the department which issued the license, ~~together with~~  
2 a notice of suspension clearly stating that the suspension is for failure to pay a  
3 surcharge imposed by the court, together with any license issued under ch. 29 of  
4 which the court takes possession. If the surcharge is paid during the period of  
5 suspension, the suspension shall be reduced to the time period which has already  
6 elapsed and the court shall immediately notify the department which shall then, if  
7 the license is issued under ch. 29, return the license to the juvenile.

8 **SECTION 17.** 938.34 (14m) of the statutes is amended to read:

9 938.34 (14m) VIOLATION INVOLVING A MOTOR VEHICLE. Restrict or suspend the  
10 operating privilege, as defined in s. 340.01 (40), of a juvenile who is adjudicated  
11 delinquent under a violation of any law in which a motor vehicle is involved. If the  
12 court suspends a juvenile's operating privilege under this subsection, the court shall  
13 ~~immediately may take possession of, and if possession is taken, shall destroy,~~ the  
14 suspended license ~~and forward it.~~ The court shall forward to the department of  
15 transportation ~~together with~~ a notice stating the reason for and duration of the  
16 suspension. If the court limits a juvenile's operating privilege under this subsection,  
17 the court shall immediately notify the department of transportation of that  
18 limitation.

19 **SECTION 18.** 938.34 (14r) (a) of the statutes is amended to read:

20 938.34 (14r) (a) In addition to any other dispositions imposed under this  
21 section, if the juvenile is found to have violated ch. 961, the court shall suspend the  
22 juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months  
23 nor more than 5 years. The court ~~shall immediately may take possession of, and if~~  
24 possession is taken, shall destroy, any suspended license ~~and forward it.~~ The court  
25 shall forward to the department of transportation ~~together with~~ the notice of

1 suspension clearly stating that the suspension or revocation is for a violation of ch.  
2 961.

3 **SECTION 19.** 938.342 (1g) (a) of the statutes is amended to read:

4 938.342 (1g) (a) Suspend the person's operating privilege, as defined in s.  
5 340.01 (40), for not less than 30 days nor more than one year. The court shall  
6 immediately may take possession of, and if possession is taken, shall destroy, the  
7 suspended license and forward it. The court shall forward to the department of  
8 transportation ~~together with~~ a notice stating the reason for and duration of the  
9 suspension.

10 **SECTION 20.** 938.343 (2) of the statutes is amended to read:

11 938.343 (2) Impose a forfeiture not to exceed the maximum forfeiture that may  
12 be imposed on an adult for committing that violation or, if the violation is only  
13 applicable to a person under 18 years of age, \$50. Any such order shall include a  
14 finding that the juvenile alone is financially able to pay and shall allow up to 12  
15 months for the payment. If a juvenile fails to pay the forfeiture, the court may  
16 suspend any license issued under ch. 29 or suspend the juvenile's operating privilege,  
17 as defined in s. 340.01 (40), for not more than 2 years. The court shall immediately  
18 take possession of the suspended license and forward it if issued under ch. 29 or, if  
19 the license is issued under ch. 343, the court may take possession of, and if possession  
20 is taken, shall destroy, of the license. The court shall forward to the department  
21 which issued the license, ~~together with~~ the notice of suspension clearly stating that  
22 the suspension is for failure to pay a forfeiture imposed by the court, together with  
23 any license issued under ch. 29 of which the court takes possession. If the forfeiture  
24 is paid during the period of suspension, the court shall immediately notify the  
25 department, which will thereupon, if the license is issued under ch. 29, return the

1 license to the person. Any recovery under this subsection shall be reduced by the  
2 amount recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

3 **SECTION 21.** 938.344 (2e) (b) of the statutes is amended to read:

4 938.344 (2e) (b) Whenever a court suspends a juvenile's operating privilege  
5 under this subsection, the court ~~shall immediately~~ may take possession of, and if  
6 possession is taken, shall destroy, any suspended license and forward it. The court  
7 shall forward to the department of transportation, ~~together with~~ the notice of  
8 suspension clearly stating that the suspension is for a violation under s. 961.573 (2),  
9 961.574 (2) or 961.575 (2), or a local ordinance that strictly conforms to one of those  
10 statutes.

11 **SECTION 22.** 938.355 (6) (d) 2. of the statutes is amended to read:

12 938.355 (6) (d) 2. Suspension of or limitation on the use of the juvenile's  
13 operating privilege, as defined under s. 340.01 (40), or of any approval issued under  
14 ch. 29 for a period of not more than 3 years. If the juvenile does not hold a valid  
15 operator's license under ch. 343, other than an instruction permit under s. 343.07 or  
16 a restricted license under s. 343.08, on the date of the order issued under this  
17 subdivision, the court may order the suspension to begin on the date that the  
18 operator's license would otherwise be reinstated or issued after the juvenile applies  
19 and qualifies for issuance or 2 years after the date of the order issued under this  
20 subdivision, whichever occurs first. If the court suspends the juvenile's operating  
21 privileges or an approval issued under ch. 29, the court shall immediately take  
22 possession of the suspended license or approval and forward it may take possession  
23 of, and if possession is taken, shall destroy, the suspended license. The court shall  
24 forward to the department that issued it, ~~together with~~ the license or approval the  
25 notice of suspension, together with any approval of which the court takes possession.

1           **SECTION 23.** 938.355 (6m) (a) 1m. of the statutes is amended to read:

2           938.355 **(6m)** (a) 1m. Suspension or limitation on the use of the juvenile's  
3           operating privilege, as defined under s. 340.01 (40), or of any approval issued under  
4           ch. 29 for not more than one year. If the juvenile does not hold a valid operator's  
5           license under ch. 343, other than an instruction permit under s. 343.07 or a restricted  
6           license under s. 343.08, on the date of the order issued under this subdivision, the  
7           court may order the suspension or limitation to begin on the date that the operator's  
8           license would otherwise be reinstated or issued after the juvenile applies and  
9           qualifies for issuance or 2 years after the date of the order issued under this  
10          subdivision, whichever occurs first. If the court suspends a juvenile's operating  
11          privilege or an approval issued under ch. 29, the court shall immediately take  
12          possession of the suspended license or approval and forward it may take possession  
13          of, and if possession is taken, shall destroy, the suspended license. The court shall  
14          forward to the department that issued the license or approval with a notice stating  
15          the reason for and the duration of the suspension, together with any approval of  
16          which the court takes possession.

17          **SECTION 24.** 961.50 (1) (intro.) of the statutes is amended to read:

18          961.50 (1) (intro.) If a person is convicted of any violation of this chapter, the  
19          court shall, in addition to any other penalties that may apply to the crime, suspend  
20          the person's operating privilege, as defined in s. 340.01 (40), for not less than 6  
21          months nor more than 5 years. The court ~~shall immediately~~ may take possession of,  
22          and if possession is taken, shall destroy, any suspended license and forward it. The  
23          court shall forward to the department of transportation ~~together with~~ the record of  
24          conviction and notice of the suspension. The person is eligible for an occupational  
25          license under s. 343.10 as follows:

1            **SECTION 25. Initial applicability.**

2           (1) This act first applies to convictions, suspensions, revocations, and refusals  
3           occurring on the effective date of this subsection.

4 (END)